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ABSTRACT

Questionnaires containing one of nine stories about a sexual act between a man and woman, as well as bipolar judgment scales about the behavior and characteristics of the actors in the story, were given to 90 undergraduate college students. Low, moderate, and high levels of struggle on the part of the woman and of psychological coercion on the part of the man were varied in the stories. In addition to the judgment scales, questions were included asking each subject whether a rape had occurred and whether the man would be found guilty of rape in a court of law. Analysis of variance of the levels of struggle and coercion and of subject sex indicated very little effect of coercion, but consistent significance of the levels of struggle on all ratings. There was a high degree of relationship between ratings of the actors in the stories and judgments of rape. (Author)

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Rape: Perceptions of the Act, the Victim and the Perpetrator

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Abstract

Questionnaires containing one of nine stories about a sexual act between a man and woman and bipolar judgment scales about the behavior and characteristics of the actors in the story were given to 90 undergraduate college students. Low, moderate, and high levels of struggle on the part of the woman and of psychological coercion on the part of the man were varied in the stories. In addition to the judgment scales, each subject was asked whether a rape had occurred and whether the man would be found guilty of rape in a court of law. Analysis of variance of the levels of struggle and coercion and of subject sex indicated very little effect of coercion but consistent significance of the levels of struggle on all ratings. There was a high degree of relationship between ratings of the actors in the stories and judgments of rape.

PROSECUTION OF A CRIME IS A DISCRETIONARY DECISION OF THE PROSECUTOR. THIS IS ESPECIALLY TRUE IN THE AREA OF SEXUAL ASSAULT WHERE THE VICTIM AND THE ACCUSED ARE OFTEN THE ONLY WITNESSES TO THE ALLEDGED CRIME. ONE IMPORTANT VARIABLE IN THE DECISION TO PROSECUTE IS WHETHER THE ATTORNEY FOR THE STATE BELIEVES THAT THE EVIDENCE WILL CONVINCE A JURY OF THE DEFENDENT'S GUILT.

THIS RESEARCH PRESENTS A METHODOLOGY FOR SYSTEMATICALLY STUDYING THE MANY PREJUDICIAL VARIABLES AFFECTING JURY DECISIONS IN THE CASE OF SEXUAL ASSAULT. A BASIC STORY WAS DEVELOPED WHERE THE DEFINITION OF THE SEXUAL ACT WHICH OCCURRED WOULD BE AMBIGUOUS. THE STORY WAS THEN ELABORATED BY "LOW", "MODERATE", AND "HIGH" LEVELS OF TWO VARIABLES: THE AMOUNT OF STRUGGLE FROM THE VICTIM AND THE AMOUNT OF "PSYCHOLOGICAL" COERCION USED BY THE AGGRESSOR.

SUBJECTS WERE ASKED TO READ ONE OF THE NINE STORIES GENERATED AND TO DECIDE WHETHER THERE HAD BEEN A RAPE AND TO RATE THE PERSONAL CHARACTERISTICS OF THE VICTIM AND THE AGGRESSOR ON THE BASIS OF THE STORY.

THE RESULTS ARE SHOWN BELOW.

THESE STORIES CAN EASILY BE ALTERED TO TEST THE EFFECT OF OTHER VARIABLES WHICH ARE REPUTED TO AFFECT JURY DECISIONS IN EXTRA-LEGAL WAYS (ATTRACTIVENESS, AGE, DRESS, OCCUPATION, ETC. OF THE VICTIM AND THE AGGRESSOR) AND THEN WEIGHTED TO DETERMINE THEIR ACTUAL IMPORTANCE.

THE APPLICATION OF THIS TYPE OF RESEARCH IS SEVERALFOLD:

(1) ATTORNEYS MAKE DECISIONS OF WHETHER TO TAKE A CASE TO COURT ON ASSUMPTIONS ABOUT JURY REACTIONS (SEE REFERENCE LIST ACCOMPANYING PAPER). JURY MEMBERS ARE ALSO SELECTED ON THE BASIS OF THESE ASSUMPTIONS WHICH HAVE NOT BEEN EMPIRICALLY TESTED. MORE EFFECTIVE PROSECUTION OF SEXUAL ASSAULTS MIGHT RESULT FROM BETTER UNDERSTANDING OF THESE VARIABLES.

(2) THERE HAVE BEEN EXTENSIVE PROGRAMS OF PUBLIC RE-EDUCATION IN THE AREA OF ATTITUDES AND BEHAVIORS RELATED TO RAPE. THIS TYPE OF METHODOLOGY CAN BE USED TO EVALUATE PUBLIC OPINION AND THE NEED AND DIRECTION FOR FURTHER EDUCATION.

Rape: Perceptions of the act, the victim and the perpetrator

The rate of reported forcible rape in the United States increased by 115% between 1965 and 1974, with recent statistics showing that the rise in sexual assault reports outstrips that of all other major violent crimes. (Legal Enforcement Assistance Agency, 1976) Yet, for every rape reported it is estimated that between four and eight go unreported. Of the reported sexual assaults, the number which lead to a trial and eventually to a conviction is much smaller. Some major variables which contribute to the low conviction rate include the prosecutor's discretion to bring a case to court, type of testimony that is available in the courtroom, and the jury's perception of the victim and the defendant.

The decision to bring a case to trial is chiefly made by the prosecutor. One study shows that among the most important factors of this decision are the variables of whether physical force was used, whether there was injury to the victim, what the circumstances of initial contact were, what relationship existed between the victim and accused, what amount of resistance was shown by the victim, and whether the victim had a prior arrest record. (LEAA, 1976) Beyond the decision that a crime has occurred which should be brought to trial, a prosecutor is also going to be aware of the chances s/he has of getting a conviction. Thus, the factors which will influence a jury decision will be included in the decision of whether to prosecute.

Once the case comes to trial there are seldom witnesses to the crime who can testify other than the victim and the assailant. Often

there is only the testimony of the complainant, most typically a woman, against the oath of the defendant, almost always a man. Judge Lawrence Cooke, recognizing the burden this puts on the prosecutor, recently told members of the New York Bar Association, "The defense (counsel) rarely ever waives a jury trial knowing that the jury is an ally, not an enemy. Juries, which are often male-dominated, are extremely reluctant to convict." (Brownmiller, 1975)

An extensive study of the American jury system (Kalven and Zeisel, 1966) provides empirical evidence that juries are more likely to consider extra-legal variables such as the victim's demeanor, past history, and conduct in reaching verdicts more favorable to the defendant than judges' verdicts would be.

Since the attributes of the rape victim and the defendant and the relationship between the two determine to a certain extent whether the crime will be prosecuted and, if brought to trial, whether the jury will convict, an inquiry into the factors influencing judgments about sexual assaults carries legal and behavioral import. These factors increase in importance as the assault varies from the "traditional" notion of a rape occurring only between strangers, where the victim is threatened with a weapon, and where the rape occurs despite continued struggle on the part of the victim. Under these traditional aspects of a rape, a woman's consent could be easily inferred by the jury on the basis of past sexual conduct, inadequate struggle even though she feared retaliatory injury, or even on the basis of the way she was dressed. Furthermore, until recently, it was impossible under law for a husband to rape his wife. However, laws and social attitudes are beginning to change. Sexual assault was once a crime that

was only likely to be prosecuted if it had been a surprise attack on a woman of unblemished reputation who fought valiantly before and during the attack by an unknown assailant carrying a deadly weapon. Today there is a growing recognition that rape can be perpetuated by a close family member or neighbor, that prior sexual conduct does not indicate consent in the future, and that victims of the crime have often been reluctant to report it because of the legal ordeal and public embarrassment that resulted from such reports. This study explored the effects of struggle by the victim and of psychological coercion by the aggressor on the judgments of subjects who were asked to determine whether a rape had occurred and to rate personality characteristics of the victim and aggressor. It also explored the relationship between the subject's personal belief that a rape had occurred and her/his belief that the act would constitute a sexual assault under existing law.

METHOD

Ninety undergraduates, evenly divided by sex, were randomly distributed across nine experimental groups. The same basic story was used for all groups: Sexual intercourse between an engaged couple occurred despite an agreement between the man and woman that it would not occur and that at no time did the woman explicitly consent to intercourse. Variations in the stories were across three levels of the two experimental variables: high, moderate, and low psychological coercion (ranging from a threat by the man of withdrawal of love and marriage to a simple plea to "make love"), and high, moderate, and no struggle by the woman. Each subject read

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one of the nine stories and then rated the behavior of the man and of the woman and whether the act was a rape on a seven-point continuum.

RESULTS

A three-way analysis of variance for the variables of struggle, pyschological coercion, and sex of the subject was run for each scale. The results are presented in Table 1.

Insert Table 1 about here

The only variable consistently and significantly related to the ratings is that of struggle on the part of the woman in the story. As struggle increased, her behavior was perceived in a more positive light and her responsibility for the sexual act decreased. On the other hand, the man's behavior was rated in a less positive light and his perceived responsibility for the act increased as the woman's struggle increased. Consistent with this, the sexual behavior was perceived to be more like a rape as the struggle increased. The variables of psychological coercion and sex of the subject did not significantly influence ratings except for an interaction between struggle and coercion on the continuum of "good"ness-"bad"ness of the woman's behavior.

Tables 2 and 3 present a frequency count of the number of people who said that they (a) thought the act was a rape and (b) thought the act could lead to a guilty verdict of rape against Jim in a court of law. Although 40% of the sample personally thought a rape had occurred, only 14% believed that Jim would be found guilty of a rape. A phi

Table 1

F Values for Variables of Psychological Coercion, Struggle and Sex of Subject

Source	Dependent Variables				
	Jim's Goodness	Jim's Responsibility	Sue's Goodness	Sue's Responsibility	Perception of act as a Rape
Coercion (A)	.45	.57	.30	.47	.05
Struggle (B)	10.12***	4.76**	.91	4.51**	10.84***
Sex (C)	0.0	.49	1.03	.42	.09
A x B	.56	2.14	3.0*	.61	.83
A x C	.53	.74	.19	.02	1.17
B x C	2.528	2.78	1.31	.96	.68
A x B x C	.97	.45	.89	1.81	.78
Explained Variance	1.96	1.68	1.29	.91	1.88

*p $\leq$ .05
**p $\leq$ .01
***p $\leq$ .001

coefficient and Cramer's statistic were done on these frequencies. The level of relationship between a person's personal belief about the act and their judgment of the act as a crime that would bring conviction was minimal (Ψ = .259, Ψ' = .183).

Insert Tables 2 and 3 about here

DISCUSSION

The pervasiness of the effect of struggle in this study is not surprising in light of the traditional belief that a lack of struggle indicates a woman's consent to sex, which in turn has been believed to reflect on the character of the woman. On the other hand, improsing intercourse on a struggling woman has traditionally been viewed with askance in a gentleman's code of conduct.

The interaction of coercion and struggle in the rating of the "good"ness of the woman's behavior is difficult to interpret. However, an analysis of the scores in the individual cells shows that the ratings of male subject accounted for the most positive ratings in the mean cell of moderate struggle, low coercion and for the most negative ratings in the low mean cell of no struggle, low coercion. It seems that an ambivalence of communication could partially account for this finding. When the woman attempts to get out of the bed, she is unequivocably, but nicely saying "no" to further advances. But the old maxim which rants that when a woman says "no" she really menas "yes" seems to still hold true, especially among men, if the woman does not reinforce her words with an attempt to leave the situation.

Table 2

Ratings of the Act as a Rape as a Function of the Variable of Struggle

Condition:	A Rape Occurred	Jim Would be Found Guilty of a Rape
High Struggle	19	4
Moderate Struggle	12	6
Low Struggle	5	3
Total	36	13

Table 3

Ratings of the Act as a Rape as a Function of the Variable of Coercion

Condition	A Rape Occurred	Jim Would beFound Guilty of a Rape
High Coercion	13	5
Moderate Coercion	11	3
Low Coercion	12	5
Total	36	13

The variable of psychological coercion showed little effect on the rated behaviors of the characters in the story. By its nature, this variable is highly subjective and more subtle than the variable of struggle. Thus, while psychological pressure may actually be ignored by most people in rating behaviors in situations similar to this one, alternative methods of measuring and selecting the levels of the variable must be looked at before ruling its effect out completely.

One of the more interesting findings of the study is the discrepancy between a subject's personal belief that a rape had occurred and the subject's belief that the perpetrator of the rape would be found guilty of sexual assult in a court. It suggests that the subjects defined some behaviors as rapes but not as illegal actions or that they had little confidence in the chances that a rapist would be brought to justice. Either way the findings are not encouraging. A double standard continues to exist in this area, despite changes in sexual assult laws and wide spread educational programs.

If the statistics on reported sexual assults represent but the tip of an iceberg of this crime which most typically is perpetrated against women, a greater understanding of public attitudes and the variables affecting judgments about the victim, the rapist, and the assultive act must be studied. In a narrow prospective, such knowledge is important to the policeman, prosecutor, and judge who represent the legal system of sanctions. It can be used to achieve a more representative reporting of the crime, a better cooperation between the victim and law enforcement agencies and a greater effectiveness of the criminal justice process. In a broader sense, however, these attitudes reflect the

inequities of society's valuing processes of male and female rights and relationships. Continued research in the area is necessary because effective deterrence of rape will occur only when these attitudes are understood and changed.

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SHE ANSWERED, "JIM, NO, YOU PROMISED."

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